

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING COMMITTEE**

February 15, 2013

**Committee**  
**Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning Committee, having met on January 31, 2013, makes reference to County Communication 12-187, from Councilmember Donald G. Couch, Jr., transmitting a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL AMENDING SECTION 19.65.030, MAUI COUNTY CODE, RELATING TO THE ALLOWABLE NUMBER OF SHORT-TERM RENTAL HOMES IN THE KIHEI-MAKENA COMMUNITY PLAN AREA".

The purpose of the proposed resolution is to refer to the planning commissions a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.65.030, MAUI COUNTY CODE, RELATING TO THE ALLOWABLE NUMBER OF SHORT-TERM RENTAL HOMES IN THE KIHEI-MAKENA COMMUNITY PLAN AREA". The purpose of the proposed bill is to prohibit short-term rental homes in Wailea, Maui, Hawaii, within the Kihei-Makena Community Plan area.

Your Committee is in receipt of correspondence dated January 29, 2013, from the Chair of your Committee, transmitting a copy of correspondence dated May 3, 2012, from Frank "Bud" Pikrone, General Manager, Wailea Community Association. According to Mr. Pikrone, there are currently 22 subdivisions in the Wailea area with conditions, covenants, or restrictions ("CC&Rs") that restrict rentals to more than 180 days, six condominium associations that restrict rentals to 180 days or more, and one condominium association that restricts rentals to 90 days or more.

Your Committee notes that Section 19.65.030(R), Maui County Code ("MCC"), restricts the allowable number of permits for short-term rental homes in the Kihei-Makena Community Plan area to no more than 100. If enacted, the proposed bill will prohibit all short-term rental homes in Wailea.

The Deputy Planning Director stated it would not be appropriate to statutorily prohibit short-term rentals in Wailea because it is a resort community, where short-term stays are expected.

COUNCIL OF THE COUNTY OF MAUI  
**PLANNING COMMITTEE**

Page 2

**Committee  
Report No.** \_\_\_\_\_

The Planning Director was concerned about potential negative impacts to homeowners if changes are made to the law that affects the Wailea area CC&Rs. He said that CC&Rs are private agreements among the homeowners, and homeowner associations are capable of enforcing their CC&Rs.

Your Committee notes that Section 19.65.030(J), MCC, requires that applicants for short-term rental permits provide, with their application, copies of any applicable homeowner or condominium association bylaws or rules and any other applicable private CC&Rs. A Deputy Corporation Counsel explained that a restriction on short-term rentals contained within such bylaws, rules, or CC&Rs would not prohibit the Planning Director or appropriate planning commission from granting permits for short-term rentals. Such restrictions merely create a private cause of action between the homeowners for a violation of the agreement.


He advised your Committee that the Council does not have the authority to amend or enforce the CC&Rs because the CC&Rs are private contracts among homeowners, and are independent of the County's zoning authority.

The Deputy Corporation Counsel further advised your Committee that it should focus on a determination of whether Wailea is an appropriate area for short-term rental homes, rather than whether there are CC&Rs in Wailea, because the CC&Rs may change.

Your Committee voted 7-0 to recommend filing of the communication. Committee Chair Couch, Vice-Chair Victorino, and members Baisa, Cochran, Crivello, Guzman, and White voted "aye".

Your Planning Committee RECOMMENDS that County Communication 12-187 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
DONALD G. COUCH, JR., Chair